

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0448**

**Income Tax**

**Fiscal Years ending October 31, 1992, October 31, 1993, October 31, 1994, and  
October 31, 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the negligence penalty.

II. **Tax Administration** – Interest

**Authority:** IC 6.8-1-10.1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The negligence penalty and interest were assessed on an income tax assessment that resulted from a Department audit conducted for the fiscal years October 31, 1992, October 31, 1993, October 31, 1994, and October 31, 1995.

The taxpayer is a general contractor providing construction, engineering, procurement, construction management, and technical services. The taxpayer is wholly owned by another corporation. Taxpayer reports on accrual basis of accounting. The taxpayer uses the services of a related corporation for tradesmen and craftsmen payroll. The taxpayer has no locations in Indiana other than construction sites.

I. **Tax Administration** – Penalty

## **DISCUSSION**

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The taxpayer argues the negligence penalty should be waived as the taxpayer did not attempt to evade Indiana tax laws.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

## **FINDING**

The taxpayer's penalty protest is denied.

### **II. Tax Administration – Interest**

## **DISCUSSION**

The taxpayer protests the interest assessed.

IC 6.8-1-10.1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

## **FINDING**

The taxpayer's interest protest is denied.